

MINUTES OF THE MEETING OF
THE BOARD OF COSMETOLOGY EXAMINERS
February 6, 2006

ROLL CALL

The meeting of the Board of Cosmetology Examiners was called to order by the Vice Chairperson, Pam Rowland, at 9:35 a.m., Lower Level Conference Room B, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law. The following members answered roll call:

Virginia Davidsaver	- Member
Mike Evert	- Member
Marie Nordboe	- Member
Jeff Pippitt	- Member
Judy Roubal	- Member
Pam Rowland	- Vice Chairperson
Sherri Scheele	- Secretary
Monty Vogel	- Member
Marlene Wagoner	- Member
Amy Waskel	- Member
Judy Wilson	- Member

The following member was not present: Don Osentowski (out of state).

A quorum was present and the meeting convened.

Also present were: Lisa Anderson, Assistant Attorney General; Sharon Fitts, Investigator, Investigations Division; Carol Ann Gray, Credentialing Coordinator; and Susan Chocholousek, Credentialing Specialist, Credentialing Division.

INTRODUCTION OF NEW BOARD MEMBERS

Ms. Gray introduced the following members appointed to the Board of Cosmetology by the Board of Health:

- Virginia Davidsaver, Omaha, Public Member
- Mike Evert, La' James International College, Fremont, Cosmetology School Owner Member
- Marie Nordboe, Ames, Cosmetologist/Salon Owner Member

All of the terms are for the time period December 1, 2005 through November 30, 2010.

ADOPTION OF AGENDA

Judy Roubal moved, seconded by Jeff Pippitt to amend the agenda to approve the minutes later in the meeting. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried.

APPROVAL OF MINUTES - Postponed until later in the meeting.

STATISTICAL REPORTS

Ms. Gray reported the following:

- a. **Examinations** – Information regarding 2005 examinations will be available at the next meeting.
- b. **Renewal / c. Licensing**

- All school licenses expired December 31, 2005 and all schools renewed the licenses.
- All Nail Technologist licenses expired December 31, 2005. Of the approximate 1500 renewals mailed out, 226 licenses have not been renewed. Revocation notices will be sent to those individuals soon.

NATIONAL-INTERSTATE COUNCIL OF STATE BOARDS OF COSMETOLOGY (NIC)

a. Region Meeting April 8 & 9, 2006, Sun Valley, Idaho

Attendance - Discussion was held regarding the various expenditures involved for travel to this meeting.

MOTION: Judy Roubal moved, seconded by Marlene Wagoner to allow fund expenditures for all individuals attending the NIC Region 3 and 4 meeting. If more individuals desire to attend than the Department will approve, the available funds to be divided among those attending. Voting aye: Davidsaver, Evert, Nordboe, Pippitt, Roubal, Scheele, Vogel, Wagoner, Waskel, Wilson and Rowland; eleven (11). Voting nay: none (0). Motion Carried.

Marie Nordboe and Pam Rowland indicated an interest in attending. Others planning to attend are to advise Ms. Gray by Friday, February 10, 2006.

Request for Additional Agenda Item Suggestions – Ms. Gray has received a survey from the Region 3 & 4 Meeting hosts requesting additional agenda item suggestions. Consideration was given to former member Bruce Nims' suggestion at the previous meeting to have NIC consider labeling changes for patch tests and the processing time requirements for chemical applications. After discussion, the board determined not to forward this suggestion to NIC.

UPCOMING MEETING DATES AND COSMETOLOGY BOARD MEMBER LIST

Ms. Gray indicated a list of board members including upcoming meeting dates and conference room locations was distributed prior to the start of the meeting.

Vice-Chairperson Rowland declared a break at 9:55 a.m.

Duane Newland, Steve O'Brien, Loretta Bennett, Investigators, and Michael Grutsch, Program Manager, Investigation and Enforcement Section; entered the meeting at 10:10 a.m.

The meeting reconvened at 10:14 a.m.

INVESTIGATIONAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Jeff Pippitt moved, seconded by Judy Roubal to enter Closed Session for the purpose of hearing discussion of investigative reports and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Davidsaver, Evert, Nordboe, Pippitt, Roubal, , Scheele, Vogel, Wagoner, Waskel, Wilson and Rowland; eleven (11). Voting nay: none (0). Motion carried.

The board meeting entered closed session at 10:15 a.m.

Susan Chocholousek departed the meeting at 10:40 a.m.

Duane Newland departed the meeting at 10:45 a.m.

Susan Chocholousek returned to the meeting at 10:47 a.m.

Loretta Bennett departed the meeting at 10:55 a.m.

Ruth Schuldt, Compliance Monitor, Credentialing Division entered the meeting at 11:00 a.m.

Duane Newland entered the meeting at 11:05 a.m.; departed at 11:06 a.m.; entered at 11:07 a.m.; and departed the meeting at 11:08 a.m.

Barb Remmers, Investigator, Investigations Section, entered the meeting at 11:10 a.m.

Barb Remmers departed the meeting at 11:11 a.m.

Sherri Scheele departed the meeting at 11:15 a.m.

Steve O'Brien and Sharon Fitts departed the meeting at 11:20 a.m.

Sherri Scheele entered the meeting at 11:20 a.m.

Barb Remmers entered the meeting at 11:21 a.m.

Barb Remmers departed the meeting at 12:20 p.m.

Vice-Chairperson Rowland declared a break at 12:20 p.m.

The meeting reconvened in closed session at 12:41 p.m.

Jeff Pippitt departed the meeting due to a potential conflict of interest at 1:10 p.m.

Jeff Pippitt returned to the meeting at 1:25 p.m.

MOTION: Judy Roubal moved, seconded by Marlene Wagoner to return to Open Session. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried.

The meeting reconvened to Open Session at 1:25 p.m.

Judi Leibrock, Coordinator, Licensee Assistance Program (LAP), entered the meeting at 1:25 p.m.

LICENSEE ASSISTANCE PROGRAM INFORMATION

Judi Leibrock, stated she is an employee of Nebraska Methodist College. Nebraska Methodist has contracted with the State of Nebraska since 1992 to provide the Licensee Assistance Program (LAP). She presented an overview of the purpose of the Licensee Assistance Program. LAP is a program for the Health Service Professionals (licensee/certificate holder/registrant within the Nebraska Department of Health and Human Services Regulation and Licensure) for the entire state. She is located in Omaha but travels the entire state. She conducts most of the pre-licensure assessments and makes all recommendations for treatment. She also manages and monitors licensed individuals within the LAP.

Ms. Leibrock invited the board to attend the annual workshop being held on May 19, 2006 in Omaha. During 2005 the workshop was held in North Platte. The focus of the workshop this year is Relapse Prevention. There is no registration fee.

Ms. Leibrock departed the meeting at 1:40 p.m.

APPROVAL OF MINUTES

Jeff Pippitt moved, seconded by Marie Nordboe to approve the November 7, 2005 minutes as written. A voice vote was taken. Voting aye; all. Voting nay; none. Motion carried.

DISCIPLINARY INFORMATION

A. Actions Pending/Taken

Kris Chiles reported the following Actions taken since the last meeting:

- **Nail Technology:** None
- **Body Art:** Penny Siebrass was offered probation for 1 year
- **Cosmetologist:**

Danielle Boruch – Petition to Revoke Probation – currently pending

Brenda Daly – Initial license placed on probation from December, 2005 through December, 2007

Jennifer Jones – Initial license placed on probation from December, 2005 through December, 2006
(concurrent with the Court)

Schuyler Racek – Initial license placed on probation January, 2006 through January, 2011

Rebecca Rose – Initial license placed on probation January, 2006 through January, 2011

Desirrae Sands – Petition to Revoke Probation for violation of terms and conditions of probation

Carrisa Shriner – Initial license placed on probation from January, 2006 through May, 2006

Martha Ponce – Motion of Agreed Settlement to pay a civil penalty of \$500 and license placed on 2 years probation

- **Esthetician:** Jessica Peters – Initial license placed on probation December, 2005 through April, 2006
(concurrent with the Court)

Administrative Penalties Assessed

Ms. Chiles stated the majority of penalties assessed during the time since the last meeting was for salons. She does not have a list available at this time.

LEGISLATIVE UPDATE

Kris Chiles reported the following:

Uniform Licensing Law Rewrite

A mailing dated December 16, 2005 was sent to all board members regarding information that the Department received on December 12, 2005 advising the Governor's Policy Research Office would not allow pursuit of the legislation for the Uniform Licensing Law Rewrite.

Practice Act Changes

The Practice Act changes cannot be introduced as they are a result of the Uniform Licensing Law Rewrite.

Ms. Chiles stated no reason was given for the decision. The information mailed to the board members is what the department received. The department plans to regroup and ask the legislation to be introduced during 2007. A senator has requested a "place holder" so that legislation may be introduced next year.

Ms. Chiles anticipates additional forums to address any changes that the boards may be considering.

Ms. Chiles also explained that the Department is a Code Agency, which means it is under the Governor. Therefore any new or changed legislation and regulations that the department seeks must be approved in advance by the Governor. This is also true for any testimony that the department desires to present.

Bill Introduced During 2006 Session

- **LB1041** – Senator Bourne introduced this bill which proposes some major changes to the processes followed by the Board of Cosmetology for discipline of a license or offering a probationary initial license. The bill proposes the following:
 1. Restricts the review of convictions to just one year from the date of application.
 2. Restricts the terms and conditions to those imposed by the court.
 3. If the Board does go out of its authority and the person disciplined wins an appeal, then costs for attorney fees, etc will be awarded.
 4. Changes “rational” connection to “direct” connection.

This bill applies only to the disciplines under the Cosmetology Practice Act; cosmetologists, electrologists, estheticians, nail technicians, and body artists. However, the change from “rational” connection to “direct” connection is also being considered for the Uniform Licensing Law.

The Legislative Committee Hearing was held on Thursday, February 2, 2006. The department did send a letter regarding how the changes would effect procedures, however, it was not delivered until approximately one and one-half hours prior to the hearing.

Discussion followed regarding the information presented during the hearing. Ms. Chiles believes some of the information presented during the hearing regarding an individual impacted by a board decision was incomplete, however the individual was not identified during the verbal testimony.

MOTION: Judy Roubal moved, seconded by Marie Nordboe to send a letter of opposition from the Board of Cosmetology Examiners to the Legislative Committee. Voting aye: all; eleven (11). Voting nay: none (0).

Discussion was held regarding the board’s concerns that this legislation is ill-advised. A draft letter will be sent to all board members for input and approval.

APPLICATION REVIEW/RECOMMENDATIONS

Kris Chiles requested affirmation of the review/recommendations made during closed session:

a. Initial Licensure:

Crystal Rochlitz – Cosmetologist

MOTION: Judy Roubal moved, seconded by Marie Nordboe to issue a license Crystal Rochlitz without restrictions. Voting aye: Davidsaver, Evert, Nordboe, Roubal, Scheele, Vogel, Wagoner, Waskel, Wilson and Rowland; ten (10). Voting nay: none (0). Abstain: Jeff Pippitt one (1). Motion carried.

Brian Webb – Tattoo Artist: seek additional information.

Joel Sanders – Tattoo Artist

MOTION: Marlene Wagoner moved, seconded by Marie Nordboe to issue a license to Joel Sanders without restrictions. Voting aye: Davidsaver, Evert, Nordboe, Pippitt, Roubal, Scheele, Vogel, Wagoner, Waskel, Wilson and Rowland; eleven (11). Voting nay: none (0). Motion carried.

Marcia Vasa – Cosmetologist

MOTION: Marie Nordboe moved, seconded by Amy Waskel to issue a license to Marcia Vasa without restrictions. Voting aye: Davidsaver, Evert, Nordboe, Pippitt, Scheele, Vogel, Wagoner, Waskel, Wilson and Rowland; ten (10). Voting nay: Roubal; one (1). Motion carried.

April Prauner – Cosmetologist

MOTION: Sherri Scheele moved, seconded by Marie Nordboe to offer a probationary license following the recommendations of the assessment. Voting aye: Davidsaver, Evert, Nordboe, Pippitt, Roubal, Scheele, Vogel, Wagoner, Waskel, Wilson and Rowland; eleven (11). Voting nay: none (0). Motion carried.

b. Reinstatement - none

c. Convictions - none

UNFINISHED BUSINESS

Inspection form and rating revision

a. Nail Technology: Ms. Chiles reviewed the revised inspection form and the rating revision for the Nail Technology Salon Inspections. This is a result of the work group session at which seven (7) board members were in attendance. No vote was taken. The inspectors will start using the forms immediately.

b. Cosmetology: Ms. Chiles stated the Cosmetology Salon Inspection form will be in a similar format.

c. School Inspections: To be considered at another work session.

Future Worksession - A worksession was scheduled to begin at 10 a.m. on March 6, 2006. Judy Wilson indicated she would not be available. Marie Nordboe will not be available in the morning, however, will arrive as soon as possible.

Use of Candles - Ms Chiles referenced information from the Office of the Fire Marshall regarding use of candles. The flames must be protected and it must be placed on a non-combustible surface.

Newsletter – Ms. Chiles indicated the sample newsletter given to the board prior to the meeting is quite lengthy. Since a large portion of the content is regarding disciplinary actions taken and administrative penalties assessed, this may not be appropriate for the first newsletter. The following topics will be included in the first issue:

- Frequently asked questions
- List of Board Member Names
- Articles on each profession
(Body Art – Monty Vogel, School perspective – Mike Evert, Cosmetology – Judy Roubal, Electrology – Judy Wilson, Esthetics – Sherri Scheele, and Nail Technology – Pam Rowland)
- Continuing Education Requirements (changes in number of hours, mandatory hours and additional topic hours, information available on the internet)
- Inspection Information
- Mandatory Reporting of Convictions
- Filing a Complaint
- Administrative Penalty
- Staff contacts
- Web Site

Ms. Chiles indicated she will rework the newsletter. If anyone has suggestions please let her know.

Use of same room for different scope of practice

Ms. Chiles referenced the information regarding suggestions made at the worksession were sent with the agenda. The concern is if it is appropriate to use the same room for different types of activities, such as use of an esthetics room for the practice of massage. Brief discussion was held and it was determined to place this item on agenda for the March 6, 2006 worksession.

Board conviction guideline review – solo practice conditions

Ms. Chiles indicated this becomes an issue when individuals have had convictions relating to theft of money or shoplifting. Some of the concerns are that a person is prevented from owning their own salon if they are not allowed to handle money or be the only practitioner.

Discussion followed. The board decided to leave the guidelines as they are for now.

Foot spa sanitation

Pam Rowland presented information regarding piped and pipeless foot spa systems.

Ms. Rowland also presented information regarding a case reported on CNN where a client won a judgement after contracting a terrible leg infection which required skin grafts.

Discussion followed regarding the importance of using proper procedures as well as proper products to disinfect the drain systems as some products are caustic and may cause the pipes to rupture. Products must be used according to the manufacturer's directions.

Ms. Rowland also related information of a salon in another state where the plumber did not install the pipes at a proper grade allowing the water to pool and bacteria to grow.

Other - none

NEW BUSINESS

Correspondence Issues/Other

Body Art - none

Cosmetology –

- a. Ms. Nordboe received a request to consider requiring a state law test. Ms. Chiles advised that a test would need to be developed by a person with the expertise to insure the test is defensible, valid, reliable, etc and the cost would be prohibitive. Ms. Chiles indicated most professions have stopped giving a state law test. Discussion followed.
- d. Ms. Gray indicated receipt of correspondence from the State of Iowa regarding a change in their law to require passing a written practical and theory examination. The effective date of the change is December 28, 2005. Legal counsel is being consulted to determine if individuals licensed in Iowa before December 28, 2005 will meet the reciprocity requirements for Nebraska.

Electrology - none

Esthetics - none

Nail Technology -

a. Ms. Chiles reported that Stacey Tessendorf has contracted to conduct Nail Technology inspections. Mr. Tessendorf will begin training on February 7, 2006. The contract may be expanded to include body art facility inspections. At this time the contract requires no more than 75 inspections per year.

b. Ms. Chiles indicated the two full-time inspectors have been assigned to conduct nail technology salon inspections one day per week, one-half day per week to massage therapy establishment inspections and the rest of the week to be spent on cosmetology salon inspections.

Ms. Gray advised massage therapy is not within the scope of Cosmetology. The Massage Therapy Board is also one of the boards Ms. Chiles administers. It is appropriate for the cosmetology inspectors to conduct the inspections since oftentimes massage establishments are located in cosmetology salons.

Other –

a. Ms. Chiles indicated receipt of a letter from the King Research Company which states they have developed test strips for the Barbicide product.

b. Ms. Rowland requested adding Continuing Education application revision to the agenda for next meeting

ELECTION OF OFFICERS/APPOINTMENTS

Discussion was held regarding the procedure to follow for the election. Paper ballots will be used. Ms. Chiles will read the ballots and Ms. Gray will record the votes.

a. Election of Officers

- **Chairperson** – Judy Roubal nominated Marie Nordboe. Sherri Scheele nominated Pam Rowland. Judy Wilson moved, seconded by Sherri Scheele that the nominations cease. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried. Paper ballots were tabulated. Pam Rowland was elected as Chairperson.
- **Vice-Chairperson** – Pam Rowland nominated Sherri Scheele. Judy Roubal nominated Marie Nordboe. Mike Evert moved, seconded by Jeff Pippitt that the nominations cease. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried. Paper ballots were tabulated. Marie Nordboe was elected as Vice-Chairperson.
- **Secretary** – Jeff Pippitt nominated Marlene Wagoner. Pam Rowland nominated Sherri Scheele. Judy Wilson moved, seconded by Jeff Pippitt that the nominations cease. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried. Ballots were tabulated. Marlene Wagoner was elected as Secretary.

b. Appointment of Complaint Screeners and Consultant

- Body Art – Monty Vogel
- Cosmetology – Judy Roubal with Marlene Wagoner as the alternate
- Electrology – Judy Wilson
- Esthetician – Sherri Scheele with Judy Roubal as the alternate
- Nail Technology – Amy Waskel with Pam Rowland as the alternate

c. Appointment of Continuing Education Reviewers

- Body Art – none needed. Education requirement is Bloodborne Pathogen and Basic First Aid classes
- Cosmetology – Judy Roubal with Marie Nordboe as the alternate
- Electrology – Judy Wilson
- Esthetics – Sherri Scheele
- Nail Technology Pam Rowland with Amy Waskel as the alternate

ADJOURNMENT

Sherri Scheele moved, seconded by Judy Roubal to adjourn the meeting. A voice vote was taken. Voting aye: all.
Voting nay: none. Motion carried.

The meeting adjourned at 4:03 p.m.

Respectfully submitted,

Marlene Wagoner, Secretary
Board of Cosmetology Examiners

Recorded by Susan Chocholousek, Credentialing Specialist.

Summarized by Carol Ann Gray, Credentialing Coordinator.